

Uniform Real Property Electronic Recording Act (URPERA)

The Uniform Real Property Electronic Recording Act (URPERA) builds upon the work begun in the Uniform Electronic Transactions Act (UETA), and the Electronic Signatures In Global and National Commerce Act (E-Sign; 15 U.S.C. 7001 et seq.) by expressly authorizing land records officials to begin accepting records in electronic form, store electronic records, and set up systems for searching for and retrieving these land records. The Act also ensures the development of coherent standards for e-recording that will function harmoniously between recording jurisdictions and across state lines. URPERA only authorizes such activities: it does not mandate them. The Act does the following:

- equates electronic documents and electronic signatures to original paper documents and manual signatures, so that any requirement for originality (paper document or manual signature) is satisfied by an electronic document and signature.
- designates a state entity or commission responsible for setting statewide uniform standards.
- establishes the factors that the state standards entity must consider when it formulates and adopts e-recording standards.
- recognizes that counties will likely continue to accept paper documents, and allows cross-storage of electronic and paper documents.

The Act was promulgated by the Uniform Law Commission in 2004. The model uniform act with official commentary (which also serves as legislative history) can be found at: http://www.law.upenn.edu/bll/archives/ulc/urpera/URPERA_Final_apr05-1.pdf

At least 19 states have enacted URPERA in recent years. The legislation in this SSL volume is based on Idaho law.

Submitted as:

Idaho

SB1018

Status: Enacted into law on March 9, 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be known and may be cited as the “Uniform Real
2 Property Electronic Recording Act.”

3
4 Section 2. [*Definitions.*] In this chapter:

5 (1) “Document” means information that is:

6 (a) Inscribed on a tangible medium or that is stored in an electronic or other
7 medium and is retrievable in perceivable form; and

8 (b) Eligible to be recorded in the land records maintained by the recorder.

9 (2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless,
10 optical, electromagnetic or similar capabilities.

11 (3) “Electronic document” means a document that is received by the recorder in an
12 electronic form.

(4) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 3. [*Validity of Electronic Documents.*]

(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

Section 4. [*Recording of Documents.*]

(1) In this section, "paper document" means a document that is received by the recorder in a form that is not electronic.

(2) A recorder:

(a) Who implements any of the functions listed in this section shall do so in compliance with standards established by the [electronic recording commission], as created in [insert citation];

(b) May receive, index, store, archive and transmit electronic documents;

(c) May provide for access to, and for search and retrieval of, documents and information by electronic means;

(d) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(e) May convert paper documents accepted for recording into electronic form;

(f) May convert into electronic form information recorded before the recorder began to record electronic documents;

(g) May accept electronically any fee that the recorder is authorized to collect; and

(h) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

Section 5. [*Commission Created -- Officers -- Standards.*]

(1) An electronic recording commission consisting of seven (7) members appointed by the governor is hereby created to adopt standards to implement this chapter. A majority of the members of the commission must be recorders, and at least one (1) member shall be a representative from the title insurance industry. The governor shall appoint three (3) members, each for a term of two (2) years; two (2) members, each for a term of three (3) years; and two (2)

62 members each for a term of four (4) years. Thereafter, the term of office shall be four (4) years.
63 Vacancies in any unexpired term shall be filled by appointment by the governor for the remainder
64 of the unexpired term.

65 (2) The commission shall annually elect a chairman and a secretary-treasurer from among
66 its members. The commission shall meet regularly at least once each year, and at such other times
67 as called by the chairman or when requested by two (2) or more members of the commission.

68 (3) To keep the standards and practices of recorders in this state in harmony with the
69 standards and practices of recording offices in other jurisdictions that enact substantially this
70 Uniform Act and to keep the technology used by recorders in this state compatible with
71 technology used by recording offices in other jurisdictions that enact substantially this Uniform
72 Act, the electronic recording commission, so far as is consistent with the purposes, policies and
73 provisions of this chapter, shall adopt, amend or repeal standards, taking into account the
74 following considerations:

- 75 (a) Standards and practices of other jurisdictions;
- 76 (b) The most recent standards promulgated by national standard-setting bodies,
77 such as the property records industry association;
- 78 (c) The views of interested people and governmental officials and entities;
- 79 (d) The needs of counties of varying size, population and resources; and
- 80 (e) Standards requiring adequate information security protection to ensure that
81 electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

82
83 Section 6. [*Uniformity of Application and Construction.*] In applying and construing this
84 Uniform Act, consideration must be given to the need to promote uniformity of the law with
85 respect to its subject matter among states that enact it.

86
87 Section 7. [*Relation to Electronic Signatures in Global and National Commerce Act.*] This
88 chapter modifies, limits, and supersedes the Federal Electronic Signatures In Global And National
89 Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section
90 101(C) of that Act or authorize electronic delivery of any of the notices described in Section
91 103(b) of that Act.